

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Entravision Communications Corporation)	File Number EB-02-LA-402
Licensee of station KSSD-FM)	NAL/Acct. No. 200332900003
Registered Owner of ASR Number 1066158)	FRN 0006-1662-19
Newport Beach, California)	
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: February 14, 2003

By the Enforcement Bureau, Los Angeles Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Entravision Communications Corporation ("Entravision"), the registered owner of Antenna Structure Registration ("ASR") number 1066158 in Newport Beach, California, apparently willfully and repeatedly violated Section 17.57 of the Federal Communications Commission ("FCC" or "Commission") Rules ("Rules") by failing to notify the Commission of a change in ownership information.¹ We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),² that Entravision is apparently liable for forfeiture in the amount of three thousand dollars (\$3,000).

II. BACKGROUND

2. On November 26, 2002, agents from the FCC Enforcement Bureau's Los Angeles Field Office inspected the antenna structure at 33-37-55 north latitude and 117-56-18 west longitude, used by Entravision for station KSSD-FM in Newport Beach, California. At the time of the inspection, the FCC's ASR database listed Citicasters Co., as the registered owner of antenna structure number 1066158.

3. On December 19, 2002, an official Notice of Violation was issued by the Los Angeles Field Office to Citicasters Co., for a rule violation noted during the November 26, 2002, inspection of the tower. On January 6, 2003, counsel for Citicasters Co., advised that antenna structure number 1066158 had been sold several years ago.

4. Review of the FCC ASR database on January 6, 2003, revealed that updated ownership information for antenna structure number 1066158 had been filed by Entravision on January 3, 2003.

III. DISCUSSION

¹ 47 C.F.R. § 17.57.

² 47 U.S.C. § 503(b).

5. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "willful" as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly and "repeated" means the commission or omission of the act more than once or for more than one day.³

6. Section 17.57 of the Rules requires antenna structure owners to immediately notify the Commission using FCC Form 854 upon any change in ownership information. At the time of the inspection, Commission records indicated Citicasters Co., was the registered owner of antenna structure number 1066158. Entravision acquired ownership of this tower several years ago, yet as of November 26, 2002, Entravision had failed to notify the Commission of the change in ownership. On January 3, 2003, Entravision filed the required updated ownership information for the structure with the Commission.

7. Based on the evidence before us, we find that Entravision failed to immediately notify the Commission of the change in ownership of the structure in willful and repeated violation of Section 17.57 of the Rules.

8. Pursuant to Section 1.80(b)(4) of the Rules and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, ("Forfeiture Policy Statement"),⁴ the base forfeiture amount for failure to file required forms or information is \$3,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 ("Act"), as amended, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁵ Considering the entire record and applying the statutory factors listed above, a \$3,000 forfeiture is warranted.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules, Entravision Communications Corporation, is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.57 of the Rules.⁶

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act..." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991). Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to Section 503(b), provides: "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

⁴ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503; 47 C.F.R. §§ 0.111, 0.311, 1.80 and 17.57.

10. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Entravision Communications Corporation, SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FRN and the NAL/Acct. No. referenced in the caption.

12. The response to the NAL, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and must include the FRN and NAL/Acct. No. referenced in the caption.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, SW, Washington, D.C. 20554.⁷

15. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

⁷ See 47 C.F.R. § 1.1914.

16. IT IS FURTHER ORDERED THAT this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Entravision Communications Corporation, Suite 6000 West, 2425 Olympic Boulevard, Santa Monica, CA 90404.

FEDERAL COMMUNICATIONS COMMISSION

Catherine Deaton
District Director, Enforcement Bureau